



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/697,211	10/30/2003	James F. McGuckin JR.	1261	2200

7590

09/22/2005

Neil D. Gershon
Rex Medical
1011 High Ridge Rd.
Stamford, CT 06905

EXAMINER

BAXTER, JESSICA R

ART UNIT	PAPER NUMBER
----------	--------------

3731

DATE MAILED: 09/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/697,211

Applicant(s)

MCGUCKIN ET AL.

Examiner

Jessica R. Baxter

Art Unit

3731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>05092005,04042005</u> | 6) <input checked="" type="checkbox"/> Other: <u>11032004,10182004,04212004, 503</u> |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 6, 9 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,234,458 to Metais.

Metais discloses a vessel filter comprising a first region and a second region (each end region of the filter, FIG. 1), the filter movable between a collapsed position for delivery to the vessel and an expanded position for placement within the vessel (Column 4, table), the first region having a mounting portion for mounting the vessel filter (max diameter of filter in FIG.1) within the vessel and a first filter portion converging to form a first converging region at a first end portion (2), the first converging region being positioned radially and axially inwardly of an end of the mounting portion, the second region having a transverse dimension decreasing toward a second end portion (3) opposite the first end portion to form a second filter portion at the second end portion on the opposing side of the filter from the first filter portion; wherein the wherein the second filter portion converges to a second converging region (3); wherein the first and second converging regions converge to a tubular region (4,5); wherein the filter comprises a plurality elongated struts having vessel engaging

members with pointed ends (10) extending from the elongated struts to engage the vessel wall to increase retention.

3. Claims 1-4, 7, 9, 10, 12 and 20-22 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,725,552 to Kotula et al.

Kotula discloses a vessel filter comprising a first region and a second region, the filter movable between a collapsed position for delivery to the vessel and an expanded position for placement within the vessel, the first region having a mounting portion (exterior of portion 84) for mounting the vessel filter within the vessel and a first filter portion converging to form a first converging region at a first end portion, the first converging region being positioned radially and axially inwardly of an end of the mounting portion (FIG. 6C), the second region having a transverse dimension decreasing toward a second end portion (end of filter, wires of 82) opposite the first end portion to form a second filter portion at the second end portion on the opposing side of the filter from the first filter portion; wherein the second filter portion converges to a second converging region; wherein the first and second converging regions converge to a tubular region (15); wherein portions of the filter extending from the first end of the mounting portion to the first converging region angle radially inwardly and toward a center of the filter to direct particles toward the center (FIG. 6A, wires of 84); wherein the filter is composed of shape memory material (Column 5, lines 11-25); wherein the vessel filter includes a plurality of elongated members having a first component substantially parallel (wires of 82) to a longitudinal axis of the filter and a second component angled with respect to the longitudinal axis (wires of 84).

Kotula discloses a method of implanting a vessel filter in a patient's body comprising the steps of providing a vessel filter having a mounting section and first and second filtering

Art Unit: 3731

sections each terminating in a converging end region, the first filtering section spaced axially inwardly from a tangent of the end of the mounting section and the second filtering section spaced axially outwardly from the mounting section further from a center of the filter (FIGS. 6A-6C); providing a delivery member containing the vessel filter in a collapsed configuration having a first diameter; inserting the vessel filter in the collapsed configuration adjacent a surgical site so that the first filtering section faces in the direction of blood flow and the second filtering section is downstream of the first filtering section; and deploying the vessel filter from the delivery member so the vessel filter moves to a placement configuration having a diameter larger than the first diameter and the first filtering section directs particles toward a center of the filter and the second filtering section directs particles bypassing the first filtering section to the center of the filter (Column 13, lines 4-33).

4. Claims 1-3, 5-15, 17 and 20-22 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,436,120 to Meglin.

Meglin discloses a vessel filter comprising a first region and a second region, the filter movable between a collapsed position for delivery to the vessel and an expanded position for placement within the vessel, the first region having a mounting portion for mounting the vessel filter within the vessel and a first filter portion converging to form a first converging region at a first end portion (1203), the first converging region being positioned radially and axially inwardly of an end of the mounting portion, the second region having a transverse dimension decreasing toward a second end portion opposite the first end portion to form a second filter portion at the second end portion on the opposing side of the filter from the first filter portion (1204); wherein the second filter portion converges to a second converging region; wherein the first and second converging regions converge to a

Art Unit: 3731

tubular region; wherein the filter comprises a plurality elongated struts having vessel engaging members with pointed ends extending from the elongated struts to engage the vessel wall to increase retention (Column 5 lines 15-33); wherein the filter is composed of shape memory material (Column 4, lines 26-34); wherein the filter includes a plurality of elongated struts extending from the first end portion to the second end portion, the opposing ends of at least one of the elongated struts being out of phase (FIGS. 12, 14).

Meglin discloses a method of implanting a vessel filter in a patient's body comprising the steps of providing a vessel filter having a mounting section and first and second filtering sections each terminating in a converging end region, the first filtering section spaced axially inwardly from a tangent of the end of the mounting section and the second filtering section spaced axially outwardly from the mounting section further from a center of the filter; providing a delivery member containing the vessel filter in a collapsed configuration having a first diameter; inserting the vessel filter in the collapsed configuration adjacent a surgical site so that the first filtering section faces in the direction of blood flow and the second filtering section is downstream of the first filtering section; and deploying the vessel filter from the delivery member so the vessel filter moves to a placement configuration having a diameter larger than the first diameter and the first filtering section directs particles toward a center of the filter and the second filtering section directs particles bypassing the first filtering section to the center of the filter (Column 7 line 61-Column 8 line 20).

5. Claims 13-16, 18 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by WO 99/25252 to Bosma et al.

Bosma discloses a vessel filter comprising a tubular member having a plurality of cutouts formed therein forming a series of elongated struts and movable between a first

insertion configuration and a second deployed configuration (FIGS. 2,5,6,7,10), in the second configuration the struts extend substantially longitudinally from a first end portion of the filter to an intermediate portion, the struts further extending from the intermediate portion to a second end portion of the filter at an angle to the longitudinal axis radially inwardly towards the longitudinal axis of the filter, a first filter portion having a first converging region and the second filter portion having a second converging region (cylinders in FIG. 8) and being positioned at the second end portion of the filter; wherein the elongated struts include retention elements to engage the vessel wall to increase retention (27,30); wherein the retention elements have pointed members extending integrally from the elongated struts (FIGS. 9A-9C); further comprising a connecting rib extending between adjacent longitudinal struts (FIG.8); wherein the portion extending radially inwardly of at least one of the elongated struts has a width greater than a longitudinally extending portion of the strut; wherein at least one of the elongated struts has varying widths along its length (FIGS. 3, 8).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jessica R. Baxter whose telephone number is 571-272-4691. The examiner can normally be reached on M-F 8:30AM - 5:00PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eduardo Robert can be reached on 571-272-4719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3731

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jessica R Baxter
Examiner
Art Unit 3731


jrb


EDUARDO C. ROBERT
PRIMARY EXAMINER